

1 THOMAS S. BROWN, CA Bar No. 178620

2 [tsbrown@foley.com](mailto:tsbrown@foley.com)

3 NICHOLAS P. HONKAMP, CA Bar No. 261299

4 [nhonkamp@foley.com](mailto:nhonkamp@foley.com)

5 **FOLEY & LARDNER LLP**

6 555 CALIFORNIA STREET

7 SUITE 1700

8 SAN FRANCISCO, CA 94104-1520

9 TELEPHONE: 415.434.4484

10 FACSIMILE: 415.434.4507

11 ROGER A. LANE (admitted *pro hac vice*)

12 [rlane@foley.com](mailto:rlane@foley.com)

13 COURTNEY WORCESTER (admitted *pro hac vice*)

14 [cworcester@foley.com](mailto:cworcester@foley.com)

15 **FOLEY & LARDNER LLP**

16 111 HUNTINGTON AVENUE

17 BOSTON, MA 02199

18 TELEPHONE: 617.342.4000

19 FACSIMILE: 617.342.4001

20 Attorneys for New Enterprise Associates, Inc.

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**UNITED STATES DISTRICT COURT**  
**NORTHERN DISTRICT OF CALIFORNIA**

Michael Zeleny,

Plaintiff,

vs.

Edmund G. Brown, Jr., et al.,

Defendants.

Case No. 17-cv-07357-RS

**DECLARATION OF ROGER A. LANE IN  
SUPPORT OF NEA'S MOTION TO DISMISS  
PLAINTIFF'S SECOND AMENDED  
COMPLAINT**

Date: November 7, 2019

Time: 1:30 p.m.

Courtroom: 3, 17th Floor

DECLARATION OF ROGER A. LANE ISO NEA'S MOTION TO DISMISS  
Case No. 17-cv-07357-RS

I, Roger A. Lane, declare and state as follows:

1. I am an attorney licensed to practice in Massachusetts, and a partner with Foley & Lardner LLP, counsel for New Enterprise Associates, Inc. ("NEA"). I make this declaration based on my own personal knowledge, except as to these matters stated on information and belief, which I believe to be true. If called as a witness, I could competently testify to the matters stated herein.

2. Attached as **Exhibit A** is a true and correct copy of Notice of Entry of Judgment and Permanent Injunction, dated September 22, 2011, entered in *New Enterprise Associates, Inc. v. Zeleny*, Case No. Civ. 499465 (California Superior Court, County of San Mateo).

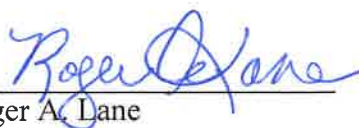
3. Attached as **Exhibit B** is a true and correct copy of a March 21, 2013 calendar appointment, bates stamped NEA\_Subpoena00005, produced in this action.

4. Attached as **Exhibit C** is a true and correct copy of a July 17, 2015 email exchange, bates stamped MP0000257, produced in this action.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Executed this 25<sup>th</sup> day of September, 2019 at Boston, Massachusetts.

September 25, 2019

By   
Roger A. Lane

**PROOF OF SERVICE**

I hereby certify that on September 25, 2019, I electronically filed the foregoing document using the Court's CM/ECF system. I am informed and believe that the CM/ECF system will send a notice of electronic filing to the interested parties.

/s/ Roger A. Lane

Roger A. Lane

DECLARATION OF ROGER A. LANE ISO NEA'S MOTION TO DISMISS  
Case No. 17-cv-07357-RS

## **EXHIBIT A**

1 HOGAN LOVELLS US LLP  
Robert B. Hawk (Bar No. 118054)  
2 Kristi K. Elder (Bar No. 231996)  
Nimrod Haim Aviad (Bar No. 259705)  
3 525 University Avenue, 4th Floor  
Palo Alto, California 94301  
4 Telephone: (650) 463-4000  
Facsimile: (650) 463-4199  
5 robert.hawk@hoganlovells.com  
kris.elder@hoganlovells.com  
6 nimi.aviad@hoganlovells.com

7 Attorneys for Plaintiff  
NEW ENTERPRISE ASSOCIATES, INC.

8  
9 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
10 COUNTY OF SAN MATEO  
11

12 New Enterprise Associates, Inc.,

13 Plaintiff,

14 v.

15 Michael Zeleny and DOES 1-25,

16 Defendants.  
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Case No. CIV 499465

Complaint filed: October 5, 2010

**NOTICE OF ENTRY OF JUDGMENT AND  
PERMANENT INJUNCTION**

1           **PLEASE TAKE NOTICE** that, on September 22, 2011, the Court entered the  
2           **JUDGMENT AND PERMANENT INJUNCTION IN FAVOR OF PLAINTIFF NEW**  
3           **ENTERPRISE ASSOCIATES, INC.** A true and correct copy of the order is attached hereto as  
4           Exhibit A.

5           **DATED:** September 23, 2011

HOGAN LOVELLS US LLP

6  
7           By: 

8                               Robert B. Hawk

9                               Attorneys for Plaintiff  
10                              NEW ENTERPRISE ASSOCIATES, INC.  
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# **EXHIBIT A**

COPY

1 HOGAN LOVELLS US LLP  
Robert B. Hawk (Cal. Bar No. 118054)  
2 Kristi K. Elder (Cal. Bar No. 231996)  
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3 525 University Avenue, 4<sup>th</sup> Floor  
Palo Alto, California 94301  
4 Telephone: (650) 463-4000  
Facsimile: (650) 463-4199  
5 robert.hawk@hoganlovells.com  
kris.elder@hoganlovells.com  
6 nimi.aviad@hoganlovells.com

**ENDORSED FILED**  
**SAN MATEO COUNTY**

SEP 22 2011

Clerk of the Superior Court  
By S. Peyrot  
DEPUTY CLERK

7 Attorneys for Plaintiff  
NEW ENTERPRISE ASSOCIATES, INC.

8 **SUPERIOR COURT OF THE STATE OF CALIFORNIA**  
9 **COUNTY OF SAN MATEO**  
10

11 New Enterprise Associates, Inc., a Delaware  
12 Corporation,

13 Plaintiff,

14 v.

15 Michael Zeleny, and DOES 1-25,

16 Defendant.

Case No. CIV 499465

**JUDGMENT AND PERMANENT  
INJUNCTION IN FAVOR OF  
PLAINTIFF NEW ENTERPRISE  
ASSOCIATES, INC.**

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**JUDGMENT & PERMANENT INJUNCTION IN FAVOR OF PLAINTIFF NEA**



1 Pursuant to California Code of Civil Procedure Section 998, on September 19, 2011,  
2 Plaintiff New Enterprise Associates, Inc. ("NEA") submitted a settlement offer to Defendant  
3 Michael Zeleny ("Zeleny"). Zeleny and his counsel accepted such offer on September 19, 2011  
4 and September 20, 2011, respectively.

5 The Court being fully advised and in accordance with California Code of Civil Procedure  
6 Section 998 hereby:

7 **ORDERS, ADJUDGES AND DECREES THAT:**

8 1. Judgment is entered against Defendant Michael Zeleny in favor of Plaintiff NEA  
9 in the amount of twenty-five thousand dollars (\$25,000) (the "Damages");

10 2. Defendant Michael Zeleny is permanently enjoined from entering onto, or  
11 inducing other individuals to enter onto, any portion of the real property situated at 2855 Sand  
12 Hill Road, Menlo Park, California, the walkways leading to NEA's business offices located in  
13 2855 Sand Hill Road, the common tenant grounds of the office park in which 2855 Sand Hill  
14 Road is located, including the internal street and entryways surrounding the buildings, and the  
15 parking lots serving employees and invited guests of tenants of the office complex, as depicted in  
16 the photograph (within the red line) attached as Exhibit A (the "Permanent Injunction");

17 3. The Damages and the Permanent Injunction are in satisfaction of all claims in this  
18 action, including without limitation, claims for injunctive relief, damages, costs and expenses,  
19 attorney fees and interest.

20 **IT IS SO ORDERED.**

21  
22 Dated: September 12, 2011

**V. Raymond Swope**

\_\_\_\_\_  
Judge of the Superior Court



**PROOF OF SERVICE**

I, Michael Ewers, declare:

I am employed in the City of San Francisco, County of San Francisco, State of California. I am over the age of eighteen years and am not a party to the within action. My business address is Hogan Lovells US LLP, 4 Embarcadero Center, 22nd Floor, San Francisco, California, 94111.

On September 23, 2011, I served the documents listed below on the interested parties in this action by placing a true and correct copy thereof, in a sealed envelope addressed as follows:

David W. Affeld  
Affeld Grivakes Zucker LLP  
12400 Wilshire Blvd., Suite 1180  
Los Angeles, CA 90025  
Phone: (310) 979-8700  
Fax: (310) 979-8701  
Email: dwa@agzlaw.com  
Counsel for Defendant Michael Zeleny

**DOCUMENTS SERVED:**

**1. NOTICE OF ENTRY OF JUDGMENT AND PERMANENT INJUNCTION**

☒ **BY MAIL:** I am readily familiar with the business' practice for collection and processing correspondence for mailing with the United States Postal Service. I know that the correspondence was deposited with the United States Postal Service on the same day this declaration was executed in the ordinary course of business and that the envelopes were sealed, with postage thereon fully prepaid, placed for collection and mailing on this date, following ordinary business practices at Palo Alto, California.

☒ **BY ELECTRONIC SERVICE:** Based on a court order or an agreement of the parties to accept service by electronic transmission, I caused the documents to be sent to the persons at the electronic notification addresses listed below. I did not receive within a reasonable time after transmission, any electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct and that this declaration was executed on September 23, 2011, at San Francisco, California.

  
Michael Ewers

## **EXHIBIT B**



## Appointment

**From:** Annie Metheany-Pyle [/O=NEA DEVELOPMENT CORP./OU=NEA\_CA/CN=RECIPIENTS/CN=APYLE]  
**Sent:** 3/21/2013 11:05:34 AM  
**To:** Joseph M. Riehl (Joseph.Riehl@atf.gov) [Joseph.Riehl@atf.gov]; msena@ncric.org; Greg Munks (gmunks@co.sanmateo.ca.us) [gmunks@co.sanmateo.ca.us]; Melinda Haag (Melinda.Haag@usdoj.gov) [Melinda.Haag@usdoj.gov]; Ronald E. Brooks (rbrooks@brooksawden.com) [rbrooks@brooksawden.com]; Craig D. Fair (craig.fair@ic.fbi.gov) [craig.fair@ic.fbi.gov]; Robert Jonsen (rjonsen@menlopark.org) [rjonsen@menlopark.org]; Lawrence D. Buckley (lawrence.buckley@ic.fbi.gov) [lawrence.buckley@ic.fbi.gov]; 'dennis.burns@cityofpaloalto.org' [dennis.burns@cityofpaloalto.org]; corcoran@workthreat.com; Steve Wagstaffe (swagstaffe@co.sanmateo.ca.us) [swagstaffe@co.sanmateo.ca.us]  
**CC:** Steve Wagstaffe [swagstaffe@smcgov.org]; Perron, Zachary [Zachary.Perron@CityofPaloAlto.org]  
**Subject:** MTG Dr. Michael H. Corcoran of the WorkThreat Group, LLC and Dave Tresmontan, CSO, NEA  
**Location:** NEA, Mammoth Conference Room - 2855 Sand Hill Road, Menlo Park, CA 94025  
**Start:** 4/9/2013 10:30:00 AM  
**End:** 4/9/2013 12:00:00 PM  
**Show Time As:** Busy  
**Recurrence:** (none)  
**Required Attendees:** Joseph M. Riehl (Joseph.Riehl@atf.gov); msena@ncric.org; Greg Munks (gmunks@co.sanmateo.ca.us); Melinda Haag (Melinda.Haag@usdoj.gov); Ronald E. Brooks (rbrooks@brooksawden.com); Craig D. Fair (craig.fair@ic.fbi.gov); Robert Jonsen (rjonsen@menlopark.org); Lawrence D. Buckley (lawrence.buckley@ic.fbi.gov); 'dennis.burns@cityofpaloalto.org'; corcoran@workthreat.com; Steve Wagstaffe (swagstaffe@co.sanmateo.ca.us)

Dr. Michael H. Corcoran of the WorkThreat Group, LLC, will be discussing his assessment of an on-going threat to NEA and its employees. I hope to have you, or a representative from your organization, participate in this discussion. In light of law enforcement resources already expended in this matter, an updated perspective may be helpful. Please do not hesitate to contact me for any additional information you may require.

Thank you,  
 Dave Tresmontan, Chief Security Officer  
 (650)687-1859

If you would prefer to conference call, please contact me and I will provide a call-in number

## **EXHIBIT C**

**From:** Greg Munks  
**To:** Jonsen, Robert  
**Cc:** Steve Waastaffe; Trisha Sanchez; Bertini, David C  
**Subject:** Re: Open Carry Suspect  
**Date:** Friday, July 17, 2015 12:22:56 PM

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Thanks bob, I'll let Trisha know that Dave will schedule a meeting..

Sent from my iPhone

> On Jul 17, 2015, at 10:54 AM, Jonsen, Robert <RJonsen@menlopark.org> wrote:

>

> Greg,

>

> His name is Michael Zeleny, and Commander Bertini will be setting up a meeting in the next couple of weeks so we can coordinate our response.

>

> Bob j

>

>

>> On Jul 17, 2015, at 10:44 AM, Greg Munks <gmunks@smcgov.org> wrote:

>>

>> Steve and Bob, I understand the fellow who has been displaying weapons near the Rosewood Hotel is planning to return this fall. I can't remember his name but I'm told he has applied for a permit to film a movie which apparently is one of the exceptions to the open carry law. I'd like to suggest we put together a meeting of our folks to discuss strategies for dealing with him. I've assigned Assistant Sheriff Trisha Sanchez to be our point person. If you have someone you'd like to represent you please send me the name so I can have Trisha schedule a meeting. Dave Tresmontan is the security guy for the victim and is available to provide additional background and assistance. While most of his activity has been in Bob's city, the object of his actions lives in Portola Valley and he has acted out there in the past. Thanks, Greg